

***Roan Keeps Frank
Decision Secret***

**RULING
WILL BE
KNOWN
FRIDAY**

Judge L. S. Roan, who has under consideration the motion for a new trial for Leo M. Frank, was in conference Thursday with Judge George L. Bell. Neither would discuss to what extent, if to any, the Frank case had been the subject of their talk.

Judge Bell, when questioned on the matter, said: "There was nothing to it, Judge Roan and myself have been friend's a long time and ours was simply a friendly conversation. There was nothing of an official nature to it."

Judge Roan will make the announcement of his decision Friday morning. He was given a copy of the amended motion Thursday afternoon.

Judge Roan viewed the motion Thursday in preparation for the announcement of his decision, paying particular attention to the allegations of bias against Henslee and Johenning and to a number of legal points involved in the defense's claim of errors.

Some of the leading lawyers of the city who have been following the case expressed the opinion that, disregarding the contention that error had been committed, the defense had established a powerful reason for a new trial in the alleged bias of A. H. Henslee.

Chances for New Trial.

The chances for a new trial on this ground alone, they said, hinged on whether Judge Roan would accept the argument of Solicitor Dorsey that Henslee, even if he made the remarks credited to him by the defense—which the State does not concede—need not have been prejudiced in the sense that he could not go into the jury box with mind open to the evidence, or whether the judge would hold with the defense that Henslee entertained an ineradicable bias against the defendant.

The defense submitted affidavits from well-known citizens in, Sparta, Monroe, Albany and Atlanta testifying that the signers had overheard Henslee not only express his belief in Frank's guilt, but roundly denounce him and say that he would like to have a hand

in his punishment. There were eleven affiants. Of these, Solicitor Dorsey sought to impeach three.

Attorneys Rosser and Arnold argued that if the Solicitor had been able to find anyone who would swear against the other eight he certainly would have done so.

Prominent, residents of the State,

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**FRANK
COUNSEL
PREPARED
TO
APPEAL**

Lawyers Announce They Will Carry His Fight to the Last Ditch.

Continued From Page 1.

including Speaker Burwell, of the State House of Representatives, swore to the veracity, responsibility, trustworthiness and general standing of some of the affiants, a circumstance, Frank's attorneys contended which left no room for doubt that Henslee had been correctly quoted and was violently prejudiced against their client. However, the State believes it has fully proved Henslee unbiased.

Judge Roan's attitude on this contention will not be known until Friday morning. Any attempt to forecast his final decision at this time is a mere guess, as he will give no hint of his stand in the matter. It is believed that much of his time until he announces his decision will be devoted to a close investigation of this important ground for a new trial.

Judge Roan, is soon as he renders his decision in the matter, will resign from his position on the Stone Mountain Circuit and will become a member of the State Court of Appeals, to which bench he was appointed some time ago by Governor John M. Slaton. Judge Ben Hill, now on the Appellate bench, will become the judge of the new Atlanta Circuit. Solicitor Reid, of the Stone Mountain

Circuit, will become presiding judge and George N. Napier, of Decatur, will act as Solicitor General.

Fight to Last Ditch.

An immediate appeal to the Supreme Court, of the State will be made by Frank's attorneys in the event the motion for a new trial is denied. Attorney Rosser asserted in his closing argument Wednesday afternoon that he was in the case until he drew his last breath or so long as his positive conviction in Frank's innocence remained. The lawyer intimated that the fight in the courts would be prolonged until every legal recourse had been tried. No advantage will be overlooked in the determined battle to save the factory superintendent from the gallows.

His lawyers and his friends maintain their asserts of belief in his innocence and in his absolute guiltlessness of the charges of immoral conduct made against him, accusations which are regarded as having had a large part in obtaining his conviction on the murder charge.

"While I believe in his innocence," said Attorney Rosser, "I shall stand in his defense as long as I live and as long as I have a breath of life."

"There will come a time when the people will wonder how such things could have taken place as have occurred during the trial of this man. Dismiss from your mind, your honor, the anarchy which the Solicitor General threatens if another trial is granted. I dispute, your honor, that a new trial would be such a blow to the judiciary that future trials would have to be under the guard of the militia, with bayonets and rifles standing for the preservation of the courts of justice."

Convicted on Perversion Charge.

Attorney Rosser made the startling statement to Judge Roan that Frank was not convicted on the evidence that he was the murderer of Mary Phagan, but that he was tried and convicted

solely on the “unsupported and utterly false” tale of perversion that was told by the negro, Jim Conley, on the stand.

“You damned him the instant you brought in that false and filthy testimony,” Rosser shouted at Solicitor Dorsey.

“Degeneracy is the matrix of all crimes. Once instill in the minds of the jurors the idea that a prisoner is a degenerate and they will tumble over themselves in their eagerness to believe him guilty of murder or any other crime in the whole calendar.”

“The law guarantees to a man the privilege of being tried only for the crime with which he formally is charged and on the charge which he is brought into court to answer. The law specifically declares that no evidence may be brought in of an independent distinct and wholly dissociated crime.”

“Yet this was done in Frank’s case to his extreme in justice and irreparable harm. Crimes were charged against him for which there was no warrant in fact and of which there was no evidence except that of the miserable, lying negro.”

“The testimony was inadmissible. There is no question about that. We believe your honor erred in not ruling I out when the defense made its most emphatic objection. That this motion was not made until after the negro had been under cross-examination a day and a half did not diminish the force of the motion in the least, nor did it relieve the court from his duty to have stricken from the record all the testimony of that nature. Your honor, we contend, was led into error, and this furnished more than sufficient grounds in itself for a new trial.”

Defends Affidavits.

Attorney Rosser devoted much of his attention to the manner in which Solicitor Dorsey and the detectives had conducted the investigation into the murder mystery and the prosecution of Frank.

He then shifted to the charges of prejudice and bias which the defense had lodged against the jurors, A. H> Henslee and

Marcellus Jochenning. He spread out the affidavits against these men and declared that in view of the prominence, reputation and character of the affiants there could be no doubt of the truth of the charges.

The lawyer began his address when the hearing opened at 9 o'clock and concluded about 4:30 in the afternoon.

Solicitor Dorsey and Attorney Leonard Haas, of counsel for Frank, were in conference Thursday morning over the amended motion used as the basis for a new trial for Frank.

The work was principally over the suggestions made during the hearing which were incorporated in the motion. A new copy of the bulky document will be made to include these interlineations.

PDF PAGE 2, ALL COLUMNS

PDF PAGE 2, COLUMN 1
LEO FRANK DENIED
NEW TRIAL

PDF PAGE 2, COLUMN 1
ROAN UPHOLDS JURY
VERDICT

PDF PAGE 2, COLUMN 1

DORSEY AGAIN VICTOR IN STATE'S GREATEST FIGHT FOR MAN'S LIFE

Leo M. Frank, convicted August 25 of the murder of Mary Phagan, and sentenced to hang, to-day was denied a new trial by Judge L. S. Roan.

Again in the shadow of the gallows from which he was respited by the motion by the motion for a new trial, Frank will be saved a second time by an immediate appeal to the Supreme Court by his lawyers.

The convicted man's friends and counsel declare that his case will be carried to the highest court in the land, if need be, to prove that he is innocent of the revolting murder of the little factory girl.

Bowed with grief in her home in Brooklyn, Mrs. Rae Frank, mother of the young factory superintendent, received the news of the failure of the long fight for another trial for her accused son.

Friends of Frank conveyed the news to him in his cell at the Tower. The prisoner received the news quietly and with the same calmness that he has met every new development in the sensational murder mystery.

"I am prepared for anything," he said. "I expected that I would be granted a new trial by Judge Roan, it seemed so palpable that I did not receive a fair trial. However, I know that it will come out all right in the end. My case is in the hands of my lawyers. I feel that ultimately they will be able to establish my innocence. I will say now as I said when I was arrested and as I said when I was on the stand, that I know absolutely nothing about the murder or the murderer."

The decision by Judge Roan ends another chapter in the prolonged fight for the life of the factory superintendent.

Counsel Array Brilliant

Few men in Georgia have had as distinguished an able counsel as have represented Frank in his long battle for life and liberty, Rosser and Arnold being recognized throughout the South as in the forefront of their profession. Their presence in a case, already notable from its highly tragic circumstances and the prominence of the accused, lent it additional notoriety and made it th South's greatest murder mystery.

Every stage in the development of the State's case and in the preparation of Frank's defense has been watched with the utmost interest, not only in Georgia and the other Southern States, but throughout the country.

After a postponement from the last week in June, Frank's trial was begun July 28, the jury being selected in an unexpectedly short time and the State beginning the outline of its case on the first day.

No more thrilling legal encounter ever has been witnessed in a Georgia court of justice than that of the two veterans, Rosser

and Arnold on one side, and the young Solicitor General, assisted by Attorney Frank A. Hooper, on the other. Through four long weeks, they battled the fortunes of the contest appearing to shift from one banner to the other and back again.

Persons who fancied that the Solicitor General, inexperienced in comparison with his rival lawyers, would be ground to pieces by the ferocity of Rosser and Arnold's first onslaught, were to be proved vastly mistaken. If Dorsey was youthful, he also was a fighter. He seldom let his opponents "get set." He seldom permitted any of the expected onslaughts to get under way. The attacks upon the State's case not often gained much impetus before they were brought up short by the Solicitor's stubborn resistance.

The outcome of the trial which earlier had been predicted as another triumphant victory for the veteran lawyers, Rosser and Arnold, soon became a matter of doubt. When Frank made his address to the jury, probably the most wonderful and impressive statement ever delivered in Georgia by a person on trial for his life, the chances for an acquittal seemed to be greatly increased. Up to the time that Solicitor Dorsey began his argument Friday afternoon, August 22, the general impression was that there would be an acquittal or a mistrial.

But the majority of persons had not reckoned with the vitriolic denunciation and invective that the Solicitor General had instore for the defendant, nor with the strength of the chain of circumstances which he had welded about the accused man.

The lawyers for the defense charged in the arguments for a new trial that Dorsey warped and misrepresented the evidence in that last appeal to the jury; that he stated as facts things for which

Frank, the Silent Prisoner.

there was no vestige of warrant in the record and persistently misled the jurors of appealing to prejudice and fear of mob violence.

Whether or not their accusations had any foundation, it undoubtedly is true that this final savage attack upon Frank as a pervert and a degenerate and as the red-handed murderer of the innocent factory girl was the greatest factor in the verdict of guilty which was returned on the second ballot within a short time after the jurors had retired to their room.

Frank was not in the court room when the verdict was returned, his presence having been waived by his attorneys through fear of violence in case an acquittal was brought in. his mother and his wife, who had been with him in the court room every day of the four weeks he was on trial, heard the news at the Tower. Frank took the verdict calmly and comforted the two women, who were hysterical with grief.

Frank the next day was taken in an automobile from the jail to Judge Roan's court in the Thrower building. Here the sentence of death was pronounced upon him. The hanging for a new trial and announced that they would file an amended motion within a few weeks. Judge Roan fixed October 4 as the date for the hearing of arguments on a new trial.

It was not long before it became evident that the hearing could not be held on the date set because of the length of time for preparation needed both by the State and the defense. Judge Roan postponed the hearing to October 11, then to October 18 and finally to Wednesday, October 22, on which date the arguments were begun in the library of the State Capitol.

Wednesday and Thursday and most of Friday were consumed

**JUDGE GIVES
VERDICT
AFTER
LAWYWERS END
IMPASSIONED
PLEAS**

in coming to an agreement as to the facts of the case as contained in the 115 reasons advanced by the defense in behalf of a new trial Solicitor Dorsey was particular as to the wording of every sentence, careful that the defense should not inject anything into their motion which he regarded as not conforming absolutely to the circumstances of the trial as they actually occurred. He was equally insistent that nothing should be omitted which he thought should be incorporated in the brief of evidence.

Arnold Delivers Philippic

Attorney Arnold, in a masterly address which was marked by unsparing criticism of the Solicitor for his so-called vindictiveness in the prosecution of Frank, made the opening plea for a new trial. He began Friday afternoon and spoke through Saturday and part of Monday, his argument consuming a total of nearly twelve hours in its delivery.

When Arnold was through, Dorsey had been described as a "head-hunter," a "persecutor rather than a prosecutor," "a player to the grandstand," and had been accused of conspiring with the detectives to "get" Frank, innocent or guilty; of extorting false affidavits from Minola McKnight and others; of using illegally and without warrant of law "third degree" methods in obtaining the sort of evidence he wanted; of departing from his functions as a prosecutor and maliciously and deliberately misrepresenting the testimony that was adduced during the trial, and inciting the crowds to violence rather than using his official position to allay the mob spirit.

Arnold charged that Dorsey had determined upon convicting Frank because it was the popular wish and it served his own personal and political ambitions thus to play in with the popular desire.

The Frank lawyer contended that a new trial should be granted because of the unfairness of the prosecutor; because of the demonstrations made during the trial, which he said were sufficient to intimidate or unduly to influence the jury; because of certain phases of the judge's charge to the jury; because at least two of the jurors were prejudiced against the defendant before the trial began and because illegal evidence relating to Frank's

conduct with women had been admitted into the record over objection of counsel for the defense.

Hooper Ridicules Defense

Attorney Hooper occupied only an hour in his argument against a new trial. He was followed by the Solicitor. Rosser closed the arguments with one of his characteristically bitter and sarcastic speeches.

Hooper scouted the charge of the defense that Henslee or any other juror was prejudiced. He said that there was every reason to doubt the affidavits of the persons who had sworn to hearing Henslee express his opinion of Frank's guilt before the trial.

He pointed out that one of the affiants was Max Farcus, of Albany, a man of the same race and religion as Frank. A carbon copy of an order signed by Henslee showed that the juror on July 8, the day he is said to have made the remarks denouncing Frank in the hearing of Farcus, sold eight buggies to Farcus. Hooper argued that this gave the lie to the defense's charges, as Henslee never would have been able to sell the buggies if he had vilified Frank before Farcus, a co-religionist.

The lawyer for the prosecution also called attention to the statements of other witnesses who swore that Henslee had told them that he had been summoned as a juror on a date, it afterward developed, some time before he was summoned or had any way of knowing that he was to be summoned. "If these witnesses are so certainly mistaken in respect to this part of Henslee's conversation, it is fair to presume that they are no more accurate as to that part in which they think he expressed his belief that Frank killed the girl," said Hooper.

Solicitor Dorsey occupied practically an entire day in meeting the charges of bias and made a sever attack on three of the defense's witnesses against Henslee—C. P. Stough, a representative of the Masons' Annuity; Sam Aaron, of No. 217 Crew street, and R. L. Gremmer, of Albany. He branded them all as not worthy of belief.

Rosser's Address Telling

After concluding his attempt to riddle the charges of prejudice, on which the defense was laying much emphasis in its arguments for a new trial, the Solicitor took up in turn the other contentions for a new trial, the Solicitor took up in turn the other contentions of the opposing lawyers and discussed them at length, declaring that they presented only the most fragile grounds for meddling with the verdict already returned.

Attorney Rosser made one of the most telling addresses of his career in presenting a new and summing up the reasons for demanding a new trial. Bitingly sarcastic, as is his custom, he was even more forceful than in his eloquent address to the jury last August. He made bitter comment on the conduct of the detectives and the Solicitor in the case and declared he never had encountered such outrageous persecution as was being visited upon Leo Frank.

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3, 5, & 7**

PDF PAGE 3, COLUMN 1

NO NEW TRIAL FOR FRANK

PDF PAGE 3, COLUMN 1

JUDGE ROAN'S FRANK DECISION:

"Gentlemen, I have thought about this case more than any other I have ever tried. I am not certain of this man's guilt. With all the thought I have put on this case, I am not thoroughly convinced that Frank is guilty or innocent. But I do not have to be convinced. The jury was convinced. There is no room to doubt that. I feel it is my duty to order that the motion for a new trial be overruled."

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EX- CONVICT

TELLS OF CRUELTY

Prisoners in the Federal penitentiary have formed a pact, in which they have sworn to reveal every tale of prison abuse and bad food, just as soon as the doors of the Government institution open to them, according to Edward Ryan, who until Thursday evening was known only as No. 3932. Ryan, who served two years, went to Buffalo Thursday evening, a few hours after he was released.

“Every man in the earthly hell which the Government calls the greatest reform institution in the world is ready and willing to tell what he knows about the scheme under which Moyer is trying to make better men of the men sentenced to the Federal pen. All have sworn to tell everything just as soon as they are released.”

Ryan, after making this statement,

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HINT AT REVELATION OF PRISON CONDITIONS SEEN IN 'GOODWORDS' ARTICLE

paused for several minutes puffing a big black cigar, something he had not enjoyed in two years.

"The first thing I did after being released was to catch a car down town and go to a restaurant, I have been hungry ever since I was put in that place," continued Ryan."

Calls Food Terrible.

"The food is something terrible. Turnip greens and fat pork were bad enough, but of late they have switched to cow beans, the bean that is supposed to be fed to nothing but cattle, and fat pork. Four days out of every week, the bread is about half cooked and is sour."

"I want to say something in regard to Warden Moyer's statement about not knowing anything about the food strike two

months ago. I know absolutely that he went to the twenty men who were confined in the 'hole' and let them out, after they promised to go to work if he would not give them any black marks. This he did."

"What caused the strike?" Ryan was asked.

"Well, I think the warden was trying to see how little food the men could really live on. Day by day the amount was cut down until we were not getting enough to keep a small animal alive, to say nothing of big hardworking men."

"Then 20 men went to the Deputy Warden and demanded that the food supply be increased, or they would refuse to work. They were thrown into the 'hole' for three days, then the Warden released them."

Ryan was a good prisoner and never was punished. Asked what he knew about cruelty in the prison, he said:

Chained Up by Hands.

"I know many prisoners who served from three to one hundred days in the 'hole.' In the morning, after eating some stale bread, they would be chained up with their hands high above their heads. There they would hang until night, when they were let down and given some bread and water. This program was carried out day after day."

Ryan says that nearly all the men in the prison have stomach trouble and many of them visit the prison doctor each day.

"Good men, strong and healthy, cannot stand the fare for more than two or three weeks before their stomachs fail them," he declared.

According to Ryan there are eight or ten "holes," where men are confined as a punishment for minor offenses. Six or eight of these cells, he says, are between the clothing room and the shoe

shop in the main building and another set under the isolation building.

Ryan is an intelligent man and seemed to know what he was talking about. He did not try to “roast” Warden Moyer and was very reluctant about talking about prison life, but he had promised the ones he left behind him to tell all he knew.

Promise to Reveal Conditions Is Seen.

A veiled promise to give to the public an intimate glimpse of conditions in the Atlanta Federal Penitentiary—a promise which he has kept to the letter since his release—is contained in the farewell of Julian Hawthorne, Register No. 4435, published in the November issue of Good Words, the prison paper.

The article intimates that articles he will write after his release from prison are to be essentially different from the ones he wrote under the supervision of Warden Moyer, and that saw the light of publication in the prison paper. He characterizes the various articles he has written for Good Words as but a faint

suggestion of the treatment he hopes to give the topic of prison life under less hampered conditions.

“We write under supervision,” Hawthorne says in his farewell article. “The views of the prisoners themselves, shared in and sympathized with by the present writer, have been hinted at, rather than described, in his articles. The hint must often have the light which seems at this moment to possess the real leaders of mankind.”

The editorial by Register No. 4282, editor of the paper, in which Julian Hawthorne and Dr. W. J. Morton are officially bidden good-bye by their colleagues of the editorial staff of Good Words, appears also to bear out the assertion that Hawthorne’s expose of the conditions at the prison was the result of a pact between himself and the other prisoners.

Voicing his belief that benefit to the man imprisoned under the present system of handling crime is rare, Register No. 4282 declares that the imprisonment of Hawthorne and Dr. Morton will prove an exception to the general rule.

“Personally it may not have been helpful to them,” he writes, “but it will contribute to a great end by benefitting humanity and improving social conditions. Their published articles have attracted the attention of the whole country to prisons and prison conditions. The information they have obtained along these lines, and their personal observations presented to the public with all the earnestness of their natures, will result in lasting benefit to humanity. Their coming to the prison benefitted men here.”

In his regular column, “The Philosophy of the Ranges,” Mr. Hawthorne published in the November issue of Good Words what appears to be a sarcastic attack on the parole system, characterizing it as “paroleitis, a strange disease.”

JUDGE L. S. ROAN,
WHO
RENDERED
DECISION
DENYING A NEW
TRIAL

PDF PAGE 3, COLUMN 7

**COUNSEL FOR
DOOMED**

**MAN BEGIN
FIGHT FOR**

APPEAL IMMEDIATELY

Leo M . Frank was denied a new trial Friday by Judge L. S. Roan.

Luther Z. Rosser, chief of counsel for the man convicted of the murder of Mary Phagan, made a request immediately upon the announcement of the decision that Judge Roan should not resign his seat on his bench of the Criminal Court until a bill of exceptions had been fled, taking the case to the Supreme Court.

Rosser also insisted that Judge Roan's remarks with which he prefaced his decision and in which he expressed his uncertainty as to Frank's innocence or guilt should be incorporated as part of the bill of exceptions.

This was strenuously resisted by Solicitor Dorsey, who maintained that the procedure was irregular and unusual, and that he was not aware that it ever had been done before.

"Let's not quarrel over whether it ever has been done before," shouted Attorney Rosser. "Let's have the truth for once."

In giving his decision Judge Roan had said: "Gentlemen, I have given this question long consideration. It has given me more concern than any other case I ever was in. And I want to say here that, although I heard the evidence and the arguments during those thirty days, I do not know this morning whether Leo Frank is innocent or guilty."

"But I was not the one to be convinced. It appears that the jury was convinced and I must approve their verdict and overrule the motion."

When the Solicitor objected to the admission of the court's uncertainty, Judge Roan replied: "Well, that's exactly the way I feel about it, gentlemen; you do with it what you wish."

The remarks will constitute a part of the bill of exceptions which will take the great murder case before the Supreme Court.

Here is the formal order overruling the motion for a new trial:

"Supreme Court, County of Fulton."

"The State vs. Leo M. Frank."

"After carefully considering the above and foregoing motion and amended motion, and the affidavits submitted by the State, the motion for a new trial is overruled and denied this October 31, 1913."

"L. S. ROAN",

"Presiding Judge."

The decision fell like a blow on the attorneys and friends of the convicted factory superintendent. They had hoped against hope for a new trial on at least one of the many grounds that had been advanced.

It was apparent, however, that Rosser and Arnold were not without a premonition of the failure of their second hard fight for the life of their client. They came into Judge Roan's office with sober faces, and displayed little of the geniality that ordinarily marks their conduct.

Solicitor Dorsey wore his usual complacent air and awaited the decision without any show of apprehension. The suspense in the hour and a half while the formalities of closing the hearing and approving the records were being completed was even greater than the time last August when the crowd was awaiting the verdict against Frank.

Even More Is at Stake.

Even more was at stake this time than before. If the motion for a new trial failed, it meant that another recourse in the battle for Frank's life and freedom had been exhausted. No one was in the office of Judge Roan save the judge, the lawyers for the defense. Solicitor Dorsey, several court attaches, one or two friends of Frank and the newspaper men.

Impressed by the portentousness of the occasion, the few people in the room looked on in absolute silence and a certain dread expectancy. There was only the conversation of the lawyers necessary to the arrival at an agreement over the records and the

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JUDGE EXPRESSES DOUBT OF FRANK'S GUILT WHEN HE REFUSES A NEW TRIAL

Continued From Page 1.

grounds of the amended motion.

Solicitor Dorsey brought in a list of added objections to the grounds for a new trial, some of which insisted that the wording of several of the grounds should be redrafted or omitted altogether. Judge Roan said that he already had passed on these, but that the objections would be retained to be used later, if need be.

Judge's Voice Trembles.

After Judge Roan had approved the amended motion and the records of the case, there was a clearing away of papers in anticipation of decision. Judge Roan had the air of one on whom great responsibility rested. There was a shade of tremor in his voice when he began to speak.

He hardly begun before one could guess that he had it in his mind to rule against the defendant. The lawyers for Frank sensed it and their countenances showed that they were bitterly disappointed.

Attorney Rosser recovered himself and with scarcely a show of feeling made his announcement that the case would be appealed to the Supreme Court.

He would not make a statement to the newspapers.

"I don't try my cases in the papers," he said. "If I had anything to say just at present, I'm afraid it might be indecent."

Solicitor Dorsey would have little to say, explaining, that the time to talk was "when the court was against you, not when it was with you."

"That's the decision I expected; it certain was," he said. "I wouldn't have believed that Judge Roan could rule against the State in the case until I actually had heard his words. It appeared to me that the law was on our side in every contended point."

Attorney Arnold said: "We will take the case at once to the Supreme Court. Never a doubt he's existed in our minds that we were entitled to a new trial.

Convinced of Victory.

“The verdict was not justified by the evidence. Judge Roan himself, a good lawyer who can weigh evidence much better than any juryman, admitted that he did not know whether Frank was innocent or guilty. But aside from this we are even more firmly convinced that we are entitled to a new trial since we have investigated the record question by question than we were when the trial ended.”

“We are satisfied to go to the Supreme Court. We are willing that the matter be decided simply on the legal points involved.”

PDF PAGE 4, COLUMNS 1, 5, & 7

PDF PAGE 4, COLUMN 1

I’m Not Convinced Frank Is Guilty or Innocent, Says Judge

“Gentlemen, I have thought about this case more than any other I have ever tried. I am not certain of this man’s guilt. With all the thought I have put on this case, I am not thoroughly convinced that Frank is guilty or innocent. But I do not have to be convinced. The jury was convinced. The jury was convinced. There is no room to doubt that. I feel it is my duty to order that the motion for a new trial be overruled,” said Judge Roan in announcing his decision on the Frank motion.

PDF PAGE 4, COLUMN 1

**NEW TRIAL DENIED FRANK;
APPEAL TAKEN**

PDF PAGE 4, COLUMN 5

**JUDGE L. S. ROAN,
WHO
RENDERED
DECISION
DENYING A NEW
TRIAL**

“The jury was convinced; it is my duty to deny a new trail,” said Judge Roan.

PDF PAGE 4, COLUMN 7

**DEFENSE GETS
READY**

FOR FINAL STAND IN FIGHT TO SAVE FRANK

Close upon the defeat of their motion for a new trial, the attorneys for Leo M. Frank, convicted of the murder of Mary Phagan, began Friday the draft of the bill of exceptions which will take the case to the Supreme Court of the State.

The new trial was denied by Judge Roan with the remarkable statement that he himself was not certain of Frank's innocence or guilt.

Attorney Reuben R. Arnold had part of the draft prepared by noon. Leonard Haas, another of the lawyers for Frank, was busy making copies of the affidavits which figured prominently in the hearing for a new trial.

Indications Friday were that the arguments before the Supreme Court in behalf of a new trial would begin the last week in January or the first in February.

The clerk of the Superior Court has ten days in which to make a copy of the record to file with the Supreme Court. Because of its volume in the Frank trial, he will require all of the time given him by law.

To Reach Climax on Appeal

The Supreme Court, when the appeal is brought to its cognizance, will place it on its docket to be heard in January or February, it is believed. The decision of the Supreme Court will be handed down in from one to six months after the conclusion of the arguments.

The arguments, which have grown in intensity as the great murder trial has progressed through its various stages, will reach their climax before the Supreme Court, as this is regarded as practically the last stand of the lawyers who are fighting for the life of Frank.

Luther Z. Rosser, chief of counsel for the man convicted of the murder of Mary Phagan, made a request immediately upon the announcement of the decision that Judge Roan should not resign his seat on the bench of the Criminal Court until a bill of exceptions had been filed, taking the case to the Supreme Court.

'Let Us Have Truth for Once'

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PDF PAGE 10, COLUMN 1

‘LET US HAVE THE TRUTH FOR ONCE,’ SAYS
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***Frank Attorney Insists on Judge’s Remarks With
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JUDGE NOT CONVINCED OF

GUILT OR INNOCENCE AS HE DENIES FRANK RETRIAL

Continued From Page 1.

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**PDF PAGE 5, COLUMNS 1 &
7**

PDF PAGE 5, COLUMN 1
FRANK APPEALS TO SUPREME COURT
FOR NEW TRIAL

PDF PAGE 5, COLUMN 7

ATTORNEYS COMPLETE BILL OF EXCEPTIONS IN BATTLE TO SAVE FRANK

The bill of exceptions which will take the case of Leo M. Frank to the Supreme Court of the State of Georgia, was completed Friday afternoon in record time by the attorneys for the man convicted of the slaying of Mary Phagan.

The signature of L. S. Roan, presiding judge at the trial and at the hearing for a new trial, will be obtained at once. Judge Roan then will be free to resign from the judgeship of the Stone Mountain Circuit and will take his position on the State Appellate Bench, to which he was appointed some time ago by Governor John M. Slaton.

Asserting that their confidence in ultimately proving their client innocent was unabated by the decision, Frank's lawyers, twice defeated in their battle to free the young factory

superintendent, entered the fight with fresh vigor almost the instant that the ruling was handed down.

Attorney Reuben Arnold immediately began the dictation of the bill of exceptions and by late in the afternoon had completed his work. Leonard Haas finished the copying of the affidavits at about the same time. The bill of exceptions will comprise 40 or 50 typewritten pages.

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The new trial was denied by Judge Roan with the remarkable statement that he himself was not certain of Frank's innocence or guilt.

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The clerk of the Superior Court has ten days in which to make a copy of the record to file with the Supreme Court. Because of its volume in the Frank trial, he will require all of the time given him by law.

The Supreme Court, when the appeal is brought to its cognizance, will place it on its docket to be heard in January or February, it is believed. The decision of the Supreme Court will be handed down in from one to six months after the conclusion of the arguments.

The arguments, which have grown in intensity as the great murder trial has progressed through its various stages, will reach

their climax before the Supreme Court, as this is regarded as practically the last stand of the lawyers who are fighting for the life of Frank.

Luther Z. Rosser, chief of counsel for the man convicted of the murder of Mary Phagan, made a request immediately upon the announcement of the decision that Judge Roan should not resign his seat on the bench of the Criminal Court until a bill of exceptions had been filed, taking the case to the Supreme Court.

Rosser also insisted that Judge Roan's remarks with which he prefaced his decision and in which he expressed his uncertainty as to Frank's innocence or guilt should be incorporated as part of the bill of exceptions.

***'Let Us
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This was strenuously resisted by Solicitor Dorsey, who maintained that the procedure was irregular and unusual, and that he was not aware that it ever had been done before.

“Let’s not quarrel over whether it ever has been done before,” shouted Attorney Rosser. “Let’s have the truth for once.”

In giving his decision Judge Roan had said: “Gentlemen, I have given this question long consideration. It has given me more concern than any other case I ever was in. And I want to say here that, although I heard the evidence and the arguments during those thirty days, I do not know this morning whether Leo Frank is innocent or guilty.”

“But I was not the one to be convinced. It appears that the jury was convinced and I must approve their verdict and overrule the motion.”

When the Solicitor objected to the admission of the court’s uncertainty, Judge Roan replied: “Well, that’s exactly the way I feel about it, gentlemen; you do with it what you wish.”

The remarks will constitute a part of the bill of exceptions which will take the great murder case before the Supreme Court.

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I’m Not Convinced Frank Is Guilty or Innocent, Says Judge

“Gentlemen, I have thought about this case more than any other I have ever tried. I am not certain of this man’s guilt. With all the thought I have put on this case, I am not thoroughly convinced that Frank is guilty or innocent. But I do not have to be convinced. The jury was convinced. The jury was convinced. There is no room to doubt that. I feel it is my duty to order that the motion for a new trial be overruled,” said Judge Roan in announcing his decision on the Frank motion.

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PDF PAGE 6, COLUMNS 1 & 7

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PDF PAGE 7, COLUMN 1

**FORMER
PRISON**

EMPLOYEES TO TESTIFY

**Despite Effort of
Warden Moyer
to Block Penitentiary
Inquiry,
Probe Is
Ordered.**

With an investigation of the Atlanta Federal Penitentiary ordered by Attorney General McReynolds, despite the efforts of friends of Warden William H. Moyer to sidetrack a probe and minimize the importance of the charges made by Julian Hawthorne, Dr. W. J. Morton and a number of former employees of

the institution, interest has centered in the testimony seven discharged guards of the institution are expected to give when the investigation is under way.

These men lost their jobs because, Warden Moyer claims, they were responsible for the charges made by Hawthorne and Dr. Morton, who, he says, assailed his administration of the prison at the instance and request of the disgruntled guards. The discharged guards, since they left the prison, have intimated that they have a complete knowledge of the hardships of the institution, and that they are ready to talk when the proper time comes, and to the proper people.

Date of Probe Secret.

It is regarded as virtually certain that when Attorney General McReynolds' investigation starts, these men will be called before the investigator and that their testimony will play a large part in the inquiry.

Dispatches from Washington Thursday state the Attorney/General refuses to make public the date the investigation will start, nor will he give out any of the details of the probe. It is understood, however, that it will be conducted by a civilian, along the lines of the probe recently made into conditions at the Leavenworth, Kans., penitentiary. Mr. McReynolds has stated that the investigation will be thorough, and that no stone will be left unturned to determine the truth of Hawthorne's and Morton's charges against Warden Moyer.

The latter has consistently demanded an investigation of the prison, though his friends have endeavored to prevent one being made. When Mr. Moyer was in Washington recently the Attorney General told him he would be held to a strict personal accounting for conditions at the prison, and it is probable that the Warden will lose his official head if the charges are sustained.

Julian Hawthorne, the novelist whose release from the prison precipitated the scandal, has written to friends in Atlanta within the last few days, declaring that the probe into conditions at the

institution will be thorough, and that it undoubtedly will result in the prisoners being given better care. Hawthorne writes also that he intends to make the cleaning up of the Atlanta prison his sole purpose in life, and that he will continue the agitation until an investigation has been made and his charge sustained.

PDF PAGE 11, COLUMN 6

Grand Jury
Will
Ask For
Better
Jails in
Fulton

Recommendations for improvement in Fulton County institutions and convict camps are expected to be made by the Grand Jury when it makes its presentments to Judge Ellis Friday.

An inspection of the institutions has been made by the Grand Jury, and satisfaction was expressed, except in a few minor things.

The Grand Jury met Thursday morning, but was in session less than an hour. One bill was considered and no action taken on it.

PDF PAGE 12, COLUMN 1

PRISONERS FORM PACT TO TELL

OF ABUSE

**Convict Just Released
Says the**

**Food Is Terrible
and Men**

**Are Inhumanly
Treated.**

Prisoners in the Federal penitentiary have formed a pact, in which they have sworn to reveal every tale of prison abuse and bad food, just as soon as the doors of the Government institution open to them, according to Edward Ryan, who until Thursday was known only as No. 3933. Ryan, who served two years, went to Buffalo Thursday evening, a few hours after he was released.

“Every man in the earthly hell which the Government calls the greatest reform institution in the world is ready and willing to tell what he knows about the scheme under which Moyer is trying to make better men of the men sentenced to the Federal pen. All have sworn to tell everything just as soon as they are released.”

Ryan, after making this statement, paused for several minutes, puffing a big black cigar, something he had not enjoyed in two years.

“The first thing I did after being released was to catch a car down town and go to a restaurant. I have been hungry ever, since I was put in that place,” continued Ryan.

Calls Food Terrible.

“The food is something terrible. Turnip greens and fat pork were bad enough, but of late they have switched to cow beans, the bean that is supposed to be fed to nothing but cattle, and fat pork. Four days out of every week the bread is about half cooked and is sour.”

“I want to say something in regard to Warden Moyer’s statement about not knowing anything about the food strike two months ago. I know absolutely that he went to the twenty men who were confined in the ‘hole’ and let them out, after they promised to go to work if he would not give them any black mars. This he did.”

“What caused the strike?” Ryan was asked.

“Well, I think the warden was trying to see how little food the men could really live on. Day by day the amount was cut down until we were not getting enough to keep a small animal alive, to say nothing of big hardworking men.”

“Then 20 men went to the Deputy Warden and demanded that the food supply be increased, or they would refuse to work. They were thrown in the ‘hole’ for three days, then the Warden released them.”

Ryan was a good prisoner and never was punished. Asked what he knew about cruelty in the prison, he said:

Chained Up by Hands.

“I know many prisoners who served from three to one hundred days in the ‘hole.’ In the morning, after eating some

stale bread, they would be chained up with their hands high above their heads. There they would hang until night, when they were let down and given some bread and water. This program was carried out day after day.”

“Good men, strong and healthy, cannot stand the fare for more than two or three weeks before their stomachs fail them,” he declared.

According to Ryan there are eight or ten “holes,” where men are confined as a punishment for minor offenses. Six or eight of these cells, he says, are between the clothing room and the shoe shop in the main building and another set under the isolation building.

Ryan is an intelligent man and seemed to know what he was talking about. He did not try to “roast” Warden Moyer and was very reluctant about talking about prison life, but he had promised the ones he left behind him to tell all he knew.

PDF PAGE 12, COLUMN 2

Frank Rehearing

Again Halts Dodd Will Litigation

The arduous attention which Luther Rosser has accorded the Frank appeal is responsible for the further postponement of the sensational Dodd will case, which was set for a hearing before Judge Ellis, the first thing Thursday morning. It was decided Friday to put the hearing over until next Monday, when it is believed Mr. Rosser will be able to take up the case.

The will case is expected to be warmly contested. Mr. Rosser represents the defense, and the main testimony of the contending heirs, cut off by the will, is to be that Mrs. Philip Dodd so ordered her will in regard to her kinspeople because they had refused to kill her first husband. The estate is estimated at \$100,000.

The case was appealed from the ordinary's court, and will be defended by the executor, who has the retained Mr. Rosser.

**CRAWFORD
CASE
TO GO TO
GRAND
JURY SOON**

**Effort to Indict Woman
for Hus-
band's Death Likely To
Be**

Made Early Next Week.

With the hearing of the motion for a new trial in the Frank case concluded, the next big case to occupy the attention of the Fulton County courts will be the Crawford case, and an attempt to indict Mrs. Mary Belle Crawford as the slayer of her husband, "Uncle Josh" Crawford. This is expected to be one of the first cases before the new Grand Jury which organizes Monday.

Civil action on the will case is being deferred, awaiting the action of the Grand Jury. Mrs. Crawford's attorneys are demanding an immediate investigation, while the attorneys for the heirs are also attempting to hurry the consideration of the case.

It is believed the deliberations of the Grand Jury will have a decided effect upon the outcome of the civil suit, which is for the division of the \$250,000 estate left by Mr. Crawford.

The case has been complicated by a number of settlements having been made with some of the heirs, who are now attempting to break the agreement under which these settlements were made.

The greatest worry to the heirs at this time is to obtain a Solicitor pro tem to handle the criminal prosecution of the charge against Mrs. Crawford, who is at liberty under \$6,000 bond, made by her when she waived preliminary hearing.

Solicitor Dorsey is prevented from handling the case, as his law firm is connected with Mrs. Crawford's defense in the civil action. Attorneys Reuben Arnold, Luther Rosser and Burton Smith, and Colonel P. H. Brewster, of the firm of Dorsey Brewster, Howell & Heyman, are Mrs. Crawford's attorneys. Colonel J. S. James represents the Crawford heirs.

Solicitor General Reid, of the Stone Mountain Circuit, was named Solicitor by Judge Ellis, but his appointment to the Stone Mountain bench to succeed Judge L. S. Roan, who goes to the

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Effort to Indict Woman for Hus- band's Death Likely To Be Made Early Next Week.

With the hearing of the motion for a new trial in the Frank case concluded, the next big case to occupy the attention of the Fulton County courts will be the Crawford case, and an attempt to indict Mrs. Mary Belle Crawford as the slayer of her husband, "Uncle Josh" Crawford. This is expected to be one of the first cases before the new Grand Jury which organizes Monday.

Civil action on the will case is being deferred, awaiting the action of the Grand Jury. Mrs. Crawford's attorneys are demanding an immediate investigation, while the attorneys for the heirs are also attempting to hurry the consideration of the case.

It is believed the deliberations of the Grand Jury will have a decided effect upon the outcome of the civil suit, which is for the division of the \$250,000 estate left by Mr. Crawford.

The case has been complicated by a number of settlements having been made with some of the heirs, who are now

attempting to break the agreement under which these settlements were made.

The greatest worry to the heirs at this time is to obtain a Solicitor pro tem to handle the criminal prosecution of the charge against Mrs. Crawford, who is at liberty under \$6,000 bond, made by her when she waived preliminary hearing.

Solicitor Dorsey is prevented from handling the case, as his law firm is connected with Mrs. Crawford's defense in the civil action. Attorneys Reuben Arnold, Luther Rosser and Burton Smith, and Colonel P. H. Brewster, of the firm of Dorsey Brewster, Howell & Heyman, are Mrs. Crawford's attorneys. Colonel J. S. James represents the Crawford heirs.

Solicitor General Reid, of the Stone Mountain Circuit, was named Solicitor by Judge Ellis, but his appointment to the Stone Mountain bench to succeed Judge L. S. Roan, who goes to the Court of Appeals, has made it necessary to obtain another man for Solicitor pro tem.

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Deathlike Calm in Court

As Decision Is Rendered

It was passing 10 o'clock in the chamber of Judge Roan, and the arguments were done.

The lawyers for Leo Frank and the lawyers for the State of Georgia waited for the ruling.

The last word had been said in the motion for a new trial. The final objection by the Solicitor had been listed.

The clerk marked the bulky documents “filed.” He dated the filing and stepped back.

Judge Roan sat through the last moments before his ruling with no betrayal of emotion, save that now and again he tapped with his shell-rimmed eyeglasses against the back of his thumb, or took a breath longer than usual.

It was four minutes past the hour when the clerk stepped back among the little group of newspaper men.

The judge spoke in the sway of a heavy, dead silence. His voice was low and a trifle husky.

The judge’s voice ceased. In the quiet there fell the quick beat of steps to the door, and then the sound of sharp voices at the telephone outside.

For a moment the lawyers on either side of the table did not move. Mr. Arnold was standing. He turned away with a barely perceptible shrug of the shoulders. Mr. Rosser set solidly at the table. Mr. Dorsey’s expression did not change a line.

To an unknown onlooker, it would have been impossible to choose the winner and the loser of the second battle for the life and honor of Leo Frank.

The clerk gathered up his burden of documents and papers.

The hearing was over.

Frank Still Stoical; Wife, With Him, Breaks Down

Surrounded by his wife and friends, Frank received the news of his second defeat with the same remarkable coolness with which he heard his sentence to be hanged after his conviction on the charge of having murdered Mary Phagan.

A friend who was with him said he made this characteristic statement:

“My belief remains unshaken that justice will ultimately be done and the truth be known—the truth that will prove my entire innocence.”

Young Mrs. Frank was not so stoical. She wept softly on her husband's shoulder, while he sought to comfort her.

About a dozen friends in all came to offer encouragement and express once more their confidence. Most of them were relatives, among them the parents of the prisoner's wife. They all, except the wife, left about 11 o'clock. There was a look of utter misery and despair in Mrs. Frank's eyes as she sat, stunned and hopeless, at her husband's side in the dreary Tower cell. Few words passed between them.

Frank, as usual, refused to see newspaper men.

Jim Conley, obeying his lawyer, W. M. Smith, did likewise.

**U. S. PRISONERS IN
PACT
TO EXPOSE ABUSE
OF MEN
IN ATLANTA
PENITENTIARY.**

Prisoners in the Federal penitentiary have formed a pact, in which they have sworn to reveal every tale of prison abuse and bad food, just as soon as the doors of the Government institution open to them, according to Edward Ryan, who until Thursday was known only as No. 3933. Ryan, who severed two years, went to Buffalo Thursday evening, a few hours after he was released.

"Every man in the earthly hell which the Government calls the greatest reform institution in the world is ready and willing to tell what he knows about the scheme under which Moyer is trying to make better men of the men sentenced to the Federal pen. All have sworn to tell everything just as soon as they are released."

Ryan, after making this statement, paused for several minutes, puffing a big black cigar, something he had not enjoyed in two years.

“The first thing I did after being released was to catch a car down town and go to a restaurant. I have been hungry ever, since I was put in that place,” continued Ryan.

Calls Food Terrible.

“The food is something terrible. Turnip greens and fat pork were bad enough, but of late they have switched to cow beans, the bean that is supposed to be fed to nothing but cattle, and fat pork. Four days out of every week the bread is about half cooked and is sour.”

“I want to say something in regard to Warden Moyer’s statement about not knowing anything about the food strike two months ago. I know absolutely that he went to the twenty men who were confined in the ‘hole’ and let them out, after they promised to go to work if he would not give them any black mars. This he did.”

“What caused the strike?” Ryan was asked.

“Well, I think the warden was trying to see how little food the men could really live on. Day by day the amount was cut down until we were not getting enough to keep a small animal alive, to say nothing of big hardworking men.”

“Then 20 men went to the Deputy Warden and demanded that the food supply be increased, or they would refuse to work. They were thrown in the ‘hole’ for three days, then the Warden released them.”

Ryan was a good prisoner and never was punished. Asked what he know about cruelty in the prison, he said:

Chained Up by Hands.

“I know many prisoners who served from three to one hundred days in the ‘hole.’ In the morning, after eating some stale bread, they would be chained up with their hands high above their heads. There they would hang until night, when they

were let down and given some bread and water. This program was carried out day after day.”

“Good men, strong and healthy, cannot stand the fare for more than two or three weeks before their stomachs fail them,” he declared.

According to Ryan there are eight or ten “holes,” where men are confined as a punishment for minor offenses. Six or eight of these cells, he says, are between the clothing room and the shoe shop in the main building and another set under the isolation building.

Ryan is an intelligent man and seemed to know what he was talking about. He did not try to “roast” Warden Moyer and was very reluctant about talking about prison life, but he had promised the ones he left behind him to tell all he knew.

Promise to Reveal Conditions Is Seen.

A veiled promise to give to the public an intimate glimpse of conditions in the Atlanta Federal Penitentiary—a promise which

he has kept to the letter since his release—is contained in the farewell of Julian Hawthorne, Register No. 4435, published in the November issue of Good Words, the prison paper.

The article intimates that articles he will write after his release from prison are to be essentially different from the ones he wrote under the supervision of Warden Moyer, and that saw the light of publication in the prison paper. He characterizes the various articles he has written for Good Words as but a faint suggestion of the treatment he hopes to give the topic of prison life under less hampered conditions.

“We write under supervision,” Hawthorne says in his farewell article. “The views of the prisoners themselves, shared in and sympathized with by the present writer, have been hinted at, rather than described, in his articles. The hint must often have seemed a feeble one; but it had to serve.”

“In laying down his pen here, the writer feels that he is indebted to his fellow-prisoners for the most important gift he has ever received from any class of his fellow-creatures. They have given him knowledge, and the impulse to make that knowledge known to the world: It has not been authentically made known as yet, or in save sporadic and unsystematized form.”

“He has felt at every stage of his sojourn here that his fellow-prisoners were his brothers. ... They are the scapegoats of the human race, but the least of the sins whose burden they bear are their own. ...Prisons seem substantial things; but it is our belief that light can dissolve these stones and bars. And it shall be our happy function to give our utmost aid and effort in that impulse to turn on the light which seems at this moment to possess the real leaders of mankind.”

The editorial by Register No. 4282, editor of the paper, in which Julian Hawthorne and Dr. W. J. Morton are officially bidden good-bye by their colleagues of the editorial staff of Good Words, appears also to bear out the assertion that Hawthorne’s expose of

the conditions at the prison was the result of a pact between himself and the other prisoners.

Voicing his belief that benefit to the man imprisoned under the present system of handling crime is rare, Register No. 4282 declares that the imprisonment of Hawthorne and Dr. Morton will prove an exception to the general rule.

“Personally it may not have been helpful to them,” he writes, “but it will contribute to a great end by benefitting humanity and improving social conditions. Their published articles have attracted the attention of the whole country to prisoners and prison conditions. The information they have obtained along these lines, and their personal observations presented to the public with all the earnestness of their natures, will result in lasting benefit to humanity. Their coming to the prison benefited men here.”

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Frank Rehearing Again Halts Dodd

Will Litigation

The arduous attention which Luther Rosser has accorded the Frank appeal is responsible for the further postponement of the sensational Dodd will case, which was set for a hearing before Judge Ellis, the first thing Thursday morning. It was decided Friday to put the hearing over until next Monday, when it is believed Mr. Rosser will be able to take up the case.

The will case is expected to be warmly contested. Mr. Rosser represents the defense, and the main testimony of the contending heirs, cut off by the will, is to be that Mrs. Philip Dodd so ordered her will in regard to her kinspeople because they had refused to kill her first husband. The estate is estimated at \$100,000.

The case was appealed from the ordinary's court, and will be defended by the executor, who has the retained Mr. Rosser.

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Fulton Judges to

Change Their Rooms

A change in the courtrooms of the various Atlanta judges will be caused by Judge Ben Hill's taking his seat on the Fulton County Superior Court bench next Monday. Judge Hill will hold court in the room now coupled by Judge Calhoun in the Thrower Building. Judge Calhoun will take the quarters occupied by Judge Bell in the old City Hall Building, Hunter and Pryor Streets.

Judge Hill will find a heavy docket awaiting him and has announced the intention of plunging into it and catching up at the earliest possible moment.

Making a determined stand in behalf of the admissibility bearing on that part of Jim Conley's testimony which had to do with Leo Frank's moral conduct, Solicitor Dorsey Tuesday afternoon neared the close of his argument in opposition to the motion for a new trial made by Frank's lawyers.

The Solicitor read numerous legal citations which enumerated cases where evidence of this nature had been admitted to show the likelihood of the defendant's guilt in respect to the charge for which he was on trial.

Mr. Dorsey touched briefly on Judge Roan's failure to charge the jury with the amount of credibility which might be given Conley's testimony, in view of the negro's admission that he repeatedly had sworn falsely. He read the law to show that the mere failure of Judge Roan to make the impeachment charge, in the absence of a request by the defense, was not at all a sufficient ground for a new trial.

Dorsey closed his argument at 4:55 and the State's case rested.

Solicitor Dorsey startled the court by the declaration that if Judge Roan reversed the Frank verdict on the grounds of prejudice or bias, that Henslee and Johanning, the jurors accused of unfairness, should be given maximum sentences in the penitentiary.

"They deserve no better fate if it is true that their minds were warped with prejudice," declared the Solicitor. "But no except my friends on the other side who are grasping at straws believe these charges on which Mr. Arnold dilated in three days of delirious rambling."

"Henslee is unimpeached; Johanning is unimpeached. I do not believe that there is a man in Georgia from the Governor down who is a more conscientious and upright citizen than Johanning."

Dorsey continued his assault throughout the day on what he appeared to regard as the most important stronghold of the defense, the alleged bias of the two jurors. In emphatic language he told the court that there was not a ground in the entire motion for a new trial that had a semblance of merit.

"The truth is, your honor," he said, "that they haven't any defense in this case, and haven't a tenable ground for this motion. They are beating aimlessly around like a man snipe-hunting, hoping against hope that something will fly into their net."

Dorsey to Finish Wednesday.

"If your honor adopts the policy of taking the word of irresponsible persons against that of a man like Henslee or Johanning, you are taking every protection away from the State and making it easy for red-handed murderers to go free."

"The people were not aroused against Leo M. Frank because he is a Jew," the Solicitor said, "but because he is a criminal. In

the name of the Gentiles of Atlanta, in the name of a community which the learned counsel for the defense declares was 'carried away with malice and a thirst for blood,' I challenge anyone to show me where anyone cried, 'Hang Frank! Lynch him!' or made any remark that could be taken as an expression of personal hatred. The counsel for the defense when they charge the jury with a display of 'mob spirit,' are not making personal accusations against any of these men. They are slandering the citizenship of the community."

As to Cheers for Dorsey.

"It is true that the people in the streets did holler for me, but that shows nothing. Because the people, for some reason or other, saw fit to cheer for me, the counsel for the defense has chosen to warp it and construe it into a demonstration against Frank."

They might as well contend that when some people applaud the hero in a melodrama, and hiss the villain, that they are applauding the man and not the part; that they are hissing the man and not the part. The people have a right to come to the courthouse: they have a right to cheer whom they please. If they want to cry that cheering for your me in persecution of Frank because he is a Jew, let them do it.

"Their changes are an attack upon your honor (Judge Roan) as much as they are an attack upon me and the members of the jury. They combatted your rulings all during the trial. They said they would move for a mistrial, and they did. And your honor overruled them. Your honor was sworn to give Leo Frank as impartial trial, and yet on every point up jumped Rube Arnold, like a chattering jack-in-the-box, like someone was working him on a string. A. H. Henslee, your honor, was not attacked more as a man than your honor was as a judge."

Discusses Henslee Affidavit.

The Solicitor read and discussed in detail the affidavit of A. H. Henslee, the juror around whom the fight for a new trial has

centered, which has appeared in print many times. He called attention to the fact that Henslee denies specifically every instance in the affidavits charging him with prejudice and bias, where he is quoted as expressing an opinion as to the guilt of Frank.

Didn't Hear Cheering.

Solicitor Dorsey also dwelt for a considerable length of time on the affidavits of Henslee and the other jurors that they had not, during the trial, heard any of the cheering, except what was heard in open court and which was instantly reproofed by Judge Roan. He declared also that at no time during the trial did any member of the jury betray an undue interest for or against Frank, and declared that he challenged Frank's attorneys to cite an instance where such an occurrence took place.

"It is highly improbable," the Solicitor declared, "that this controversy could have happened at the Elks' Club, granting that it could actually have happened at all, because the Elks' Club has more Jewish members than any club in the city, with the exception of the solely Hebrew clubs. And surely Henslee has enough refinement of character to keep to himself whatever opinion he might have of a certain race."

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**COURT
CLEAR AS**

JUDGES TRADE OFFICES

**Appeals Docket Empty for
First**

**Time-Roan and Hill to
Succeed Each Other.**

For the first time in the history of any court of review in Georgia, and so far as the records show, of any court of like character in the entire United States, the State Court of Appeals to-day stands with an absolutely clear docket, with no business whatever before it for consideration.

Every case heretofore argued has been decided, and all decisions written and placed in the hands of the court's clerical force for publication.

As a matter of fact, with a few relatively unimportant exceptions, every decision rendered already has been published,

and those remaining will be handed to the press within the next day or so.

The new court, with Judge Roan on the bench, will begin business to all intents and purposes just as if it were newly organized.

Chief Judge Benjamin Harvey Hill retires from the Appeals Court bench to-day to be succeeded tomorrow by Judge L. S. Roan, who, in his turn, is to be succeeded on the Atlanta Superior Court by Judge Hill.

Judges Labor Hard.

The Appeals Court has worked overtime, each judge laboring far into the night, for more than two months, getting ready for Judge Hill's retirement. Judge Hill himself has strained every point to get an absolutely clean record behind him before stepping down from his high position.

In this work he has been aided cordially and in every way by his colleagues, Judges Russell and Pottle.

Since Judge Hill agreed to accept the Atlanta Superior Court appointment, the Appeals Court has handed down more than 60 decisions, and not one of them has been hastily prepared or in the slightest degree immaturely considered.

With the retirement of Judge Hill, Judge Richard B. Russell becomes Chief Judge of the court, by right of seniority, as that is the rule in that body. Judge Russell is, moreover, the only judge now serving on the Appeals Bench who was elected originally to sit upon the same.

Judge Pottle, who ranks second to Judge Russell on the Appeals Bench, stands in line next for the Chief Judgeship should Judge Russell not be a candidate for re-election next year. There have been rumors that Judge Pottle intended resigning soon, but the judge has denied them rather emphatically.

New Record Set.

The Appeals Court is one of the hardest worked courts in Georgia, and its record in cleaning up its docket, absolutely before sitting under its forthcoming new order is unparalleled in the judicial history of the State.

Lawyers generally express themselves as greatly pleased with the work of the court, and the fact that it starts anew with an open docket means that decisions will come with a greater degree of promptness in the future than is expected of courts of review generally.

As a matter of fact, however, the present Appeals Bench has established a definite reputation for promptness in the past, and but for that, today's remarkable showing hardly would have been possible.